



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

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MEMORANDUM

TO: Solid Waste Management Board

FROM: Ann S. Long 
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SUBJECT: Recall and Readoption of LSA Document # 05-250(F)

DATE: June 25, 2007

Factual Background

After receiving some informal questions about rule language from the Attorney General's office, the department recalled a rule implementing program requirements for removal of mercury switches from end-of-life vehicles. The rule had been final adopted by this board on March 20, 2007. A formal notice of recall was published in the Indiana Register on June 6, 2007.

Under IC 4-22-2-40 (a), a rule may be recalled at any time before the rule is accepted for filing by the Legislative Services Agency. A board may reconsider its adoption action and adopt either an identical rule or a revised rule (IC 4-22-2-40(c)).

Reasons for Recall

The rule was in conflict with the enabling statute in that the rule established a plan and procedures for IDEM to pay for recycled mercury switches. Under IC 13-20-17.7-6 the Commissioner of IDEM is responsible for establishing that program and making certain determinations under that program. The rule also contained certain language that duplicated the statutory language or inaccurately used statutory definitions.

Accordingly, this rule proposed for readoption has been revised so that conflicts with, and duplications of, the statutory language have been removed.

Board Action

Under IC 4-22-2-40, the board may readopt a rule after the agency recalls it. The board may adopt either the identical rule or a revised rule. The rule will be submitted to the Attorney General's Office and the Governor's Office for approval and then published as a final rule in the Indiana Register. The department requests that the board adopt amendments to the rule as it was final adopted and then readopt the rule as amended.

